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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,208	01/06/2004	Irving Sabo	2258.002	2638
23405	7590	01/04/2006	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI PC			GABLER, PHILIP FRANCIS	
5 COLUMBIA CIRCLE			ART UNIT	PAPER NUMBER
ALBANY, NY 12203			3637	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/752,208	SABO ET AL.	
	Examiner	Art Unit	
	Philip Gabler	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/6/2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 21-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 11-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. It is noted that applicant has cancelled claims 11-20 in response to the requirement.
2. Applicant's election with traverse of claims 1-10, invention I directed to a storage container, in the reply filed on 12 December 2005 is acknowledged. The traversal is on the ground(s) that it would not be an undue burden to examine the two inventions of the original disclosure. This is not found persuasive because the inventions are distinct as evidenced by their individual classification, and would accordingly present an undue burden for examination.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of detachably mounted second lids of claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

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replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

4. Claim 5 is objected to because of the following informalities: The word "he" on the first line of the claim appears to be in error. The claim should read "the."

Appropriate correction is required.

5. Claim 7 is objected to because of the following informalities: The word "second" on the second line of the claim appears to be in error. It is assumed that the claim should read "third" rather than "second" as the third lid has been already claimed as pivotally mounted, while the second lid has been claimed as detachably mounted, and the claim will be examined as such. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

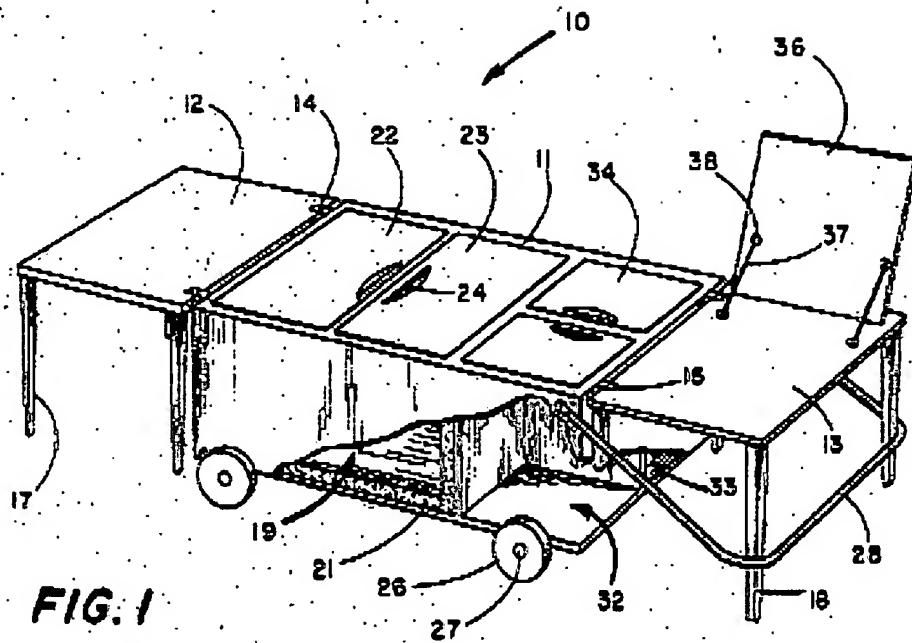
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

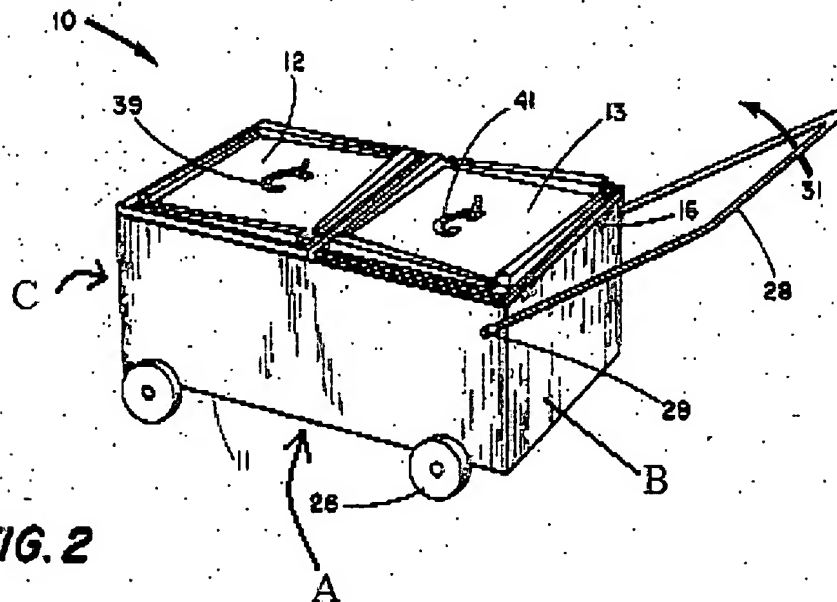
7. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (US Patent Number 3873114). Brown (Figures 1 and 2) discloses a storage container comprising: an enclosure (11) having an open top (covered in Brown's figures), a bottom (viewed as A in Exhibit 1), a first end (B), and a second end (C) opposite the first end; a first lid (13) pivotally mounted to the first end, the first lid adapted to cover at least some of the open top; and at least one second lid (23) detachably mounted (as evident by the handle for allowing manipulation of the lid to gain access to the container) between the first end and the second end, the second lid adapted to cover at least some of the open top. Regarding claim 2, Brown further discloses a third lid (12) pivotally mounted to the second end (C), the third lid adapted to cover at least some of the open top. Regarding claim 3, Brown further discloses a first end comprising a first end panel (also viewed as B) and wherein the first lid is pivotally mounted to the first end panel. Regarding claim 4, Brown discloses the first end comprising the first end panel (B as noted above) and the second end comprising the second end panel (C as noted above), and wherein the first lid is pivotally mounted to the first end panel and the third lid is pivotally mounted to the second end panel. Regarding claim 5, Brown further discloses a first lid adaptable to be pivotally mounted into a horizontal position outside

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the open top of the enclosure (see Brown's Figure 1). Regarding claim 6, Brown further discloses at least one of the first lid and third lid are adapted to be pivotally mounted into a horizontal position outside the open top of the enclosure (see Brown's Figure 1). Regarding claim 7, Brown further discloses the first lid is adapted to be pivotally mounted in a vertical position outside the open top of the enclosure (not only does the lid swing through a first vertical position between its closed and open horizontal positions, but, with the legs folded, it could continue to a second, downward, vertical position along the end of the container). Regarding claim 8, Brown further discloses the first lid, the second lid, and the third lid are adapted to substantially enclose the open top of the enclosure. Regarding claim 9, Brown further discloses at least one removable sub-container (19) positioned within the enclosure. Regarding claim 10, Brown further discloses a plurality of detachably mounted second lids (22), (23), (34).



**FIG. 1**



**FIG. 2**

**Exhibit 1: Brown ‘114 Figures 1 and 2**

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Primas (US Patent Number 2200399). Brown discloses a hinge assembly (16) for use with a storage container having a lid and an end panel wherein the hinge assembly is adapted to allow rotation of the lid about an axis. Brown does not disclose a lid having a through hole, a hinge block having a through hole or a circular rod. Primas (Figures 9, 11, and 12) discloses a container with a lid (10) with a through hole (38) pivotally mounted to a housing (9) by a hinge assembly comprising: at least one hinge block (15) having a through hole (37); and a circular rod (21) adapted to engage the through hole in the block and lid, the circular rod having an axis (along length of 21); wherein the hinge assembly is adapted to allow rotation of the lid about the axis of the circular rod. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brown's hinge assembly as taught by Primas to use a lid and a hinge block with a through hole connected by a circular rod because this would provide a sturdy, simple hinge design.

10. Regarding claims 22-28, Brown discloses a hinge assembly adapted to allow at least about 90, at least about 180, and at least about 270 degrees of rotation of the lid about the circular rod. Brown further discloses a means (18) for supporting the lid in an

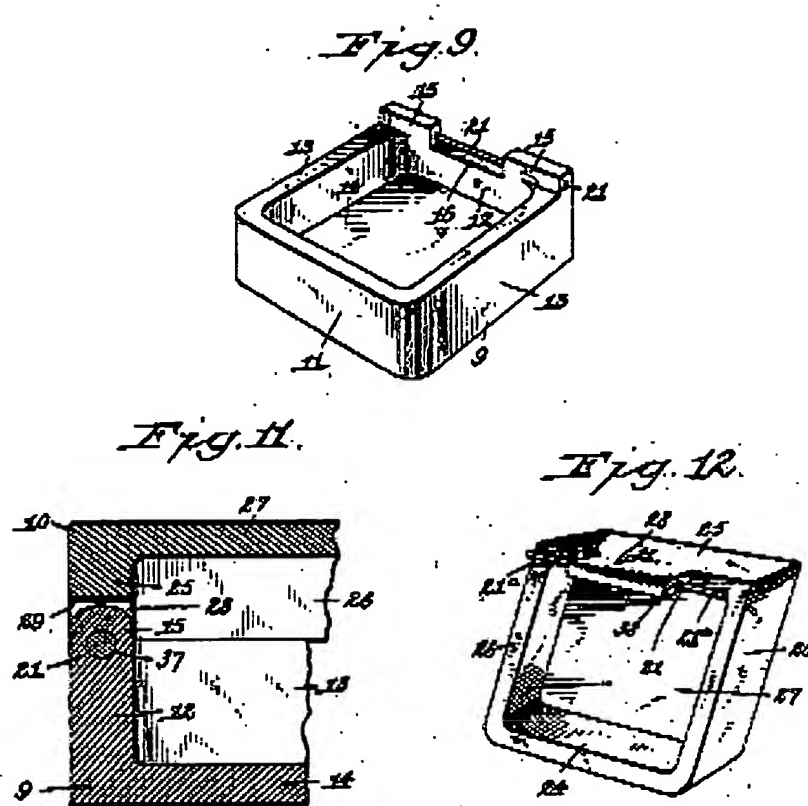


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open position, particularly a substantially horizontal open position, comprising at least one compression member comprising at least one of a rod, a stick, and a pole.

Modifying Brown's hinge assembly as taught by Primas and described above would not affect any of these features.

11. Regarding claims 29 and 30, Brown, when modified by Primas as described above, discloses a storage container as recited in claim 21. Primas further discloses a hinge assembly wherein the at least one hinge block comprises at least two hinge blocks (two features 15) and a container lid comprising at least one notch (the gaps on either side of 28) wherein the at least one hinge block is adapted to engage the at least one notch. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Brown's hinge assembly as taught by Primas to use a hinge assembly with at least two hinge blocks and a lid with notches to engage these hinge blocks because this arrangement would provide Brown's container with an effective hinge design that remains simple to manufacture.



Primas '399 Figures 9, 11, and 12

### Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Donning reference (US Patent Number 794594), the Fox reference (US Patent Number 676127) and the Mathams reference (British Patent Number 604024) are cited for disclosing containers with hinged outer lids and removable center lids.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-

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6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PFG   
12/20/2005

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

